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SOUTHERN DISTRICT OF CALIFORNIA

BY KVH DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

July 2007 Grand Jury

UNITED STATES OF AMERICA, Plaintiff, v. OMAR JINESTA (1), aka Ruben Gonzalez, MARTIN CUNNINGHAM (2), JENNIFER JINESTA (3), BENJAMIN MANUEL CUNNINGHAM (4), Defendants.	)	Criminal Case No. '08 CR 0286BTM I N D I C T M E N T Title 18, U.S.C., Secs. 922(g)(1) and 924(a)(2) - Felon in Possession of Firearms; Title 18, U.S.C., Secs. 922(g)(5)(A) and 924(a)(2) - Illegal Alien in Possession of Firearms; Title 8, U.S.C., Secs. 1326(a) and (b) - Deported Alien Found in the United States; Title 18, U.S.C., Sec. 2232(a) - Destruction and Removal of Property to Prevent Seizure; Title 18, U.S.C., Sec. 2 - Aiding and Abetting

The grand jury charges:

Count 1

On or about January 5, 2008, within the Southern District of California, defendant OMAR JINESTA, aka Ruben Gonzalez, being a person who had previously been convicted in a court, that is, the United States District Court, Southern District of California, of a crime punishable by imprisonment for a term exceeding one year, that is, on or about August 6, 2003, of Importation of Marijuana, in violation of

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Title 21, United States Code, Sections 952 and 960, did knowingly and unlawfully possess in and affecting commerce firearm, that is the following:

a. Three Walther model P22, .22 caliber, pistols, serial numbers: L195555, L195717, and L19800828;

b. One Glock, model 17, 9mm pistol, serial number ZR605US; and

c. One AMT, model Backup, .380 caliber, pistol, serial number DA5787.

All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

Count 2

On or about January 5, 2008, within the Southern District of California, defendant MARTIN CUNNINGHAM, being a person who had previously been convicted in a court, that is, the Superior Court of California, County of San Diego, of a crime punishable by imprisonment for a term exceeding one year, that is, on or about May 27, 2003, of Possession of Marijuana for Sale, in violation of California Health and Safety Code, Section 11359, did knowingly and unlawfully possess in and affecting commerce firearms, that is the following:

a. Three Walther model P22, .22 caliber, pistols, serial numbers: L195555, L195717, and L19800828;

b. One Glock, model 17, 9mm pistol, serial number ZR605US; and

c. One AMT, model Backup, .380 caliber, pistol, serial number DA5787.

All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

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Count 3

On or about January 5, 2008, within the Southern District of California, defendant OMAR JINESTA, aka Ruben Gonzalez, an alien illegally and unlawfully in the United States, did knowingly and unlawfully possess, in and affecting commerce, firearms, that is the following:

a. Three Walther model P22, .22 caliber, pistols, serial numbers: L195555, L195717, and L19800828;

b. One Glock, model 17, 9mm pistol, serial number ZR605US; and

c. One AMT, model Backup, .380 caliber, pistol, serial number DA5787.

All in violation of Title 18, United States Code, Sections 922(g)(5)(A) and 924(a)(2).

Count 4

On or about January 5, 2008, within the Southern District of California, defendant OMAR JINESTA, aka Ruben Gonzalez, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Sections 1326(a) and (b).

It is further alleged that defendant OMAR JINESTA, aka Ruben Gonzalez, was removed from the United States subsequent to August 4, 2003.

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Count 5

On or about January 7, 2008, within the Southern District of California, defendants BENJAMIN MANUEL CUNNINGHAM and JENNIFER JINESTA did knowingly aid and abet defendant OMAR JINESTA, aka Ruben Gonzalez, a convicted felon, with knowingly and unlawfully possessing a firearm that traveled in and affecting commerce, that is a Kel-tec, model P-11, 9mm, pistol, serial number A9Y79; in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2), and 2.

Count 6

On or about January 7, 2008, within the Southern district of California, defendants BENJAMIN MANUEL CUNNINGHAM and JENNIFER JINESTA, in order to prevent the seizure of a 9MM Kel-tec handgun, serial number A9Y79, from defendant OMAR JINESTA, aka Ruben Gonzalez, by a person authorized to make searches and seizures, to wit: an Alcohol Tobacco and Firearms Agent, did destroy, stave, break, remove, or throw overboard said firearm by hiding the firearm in a quasi-remote area, that is, under a shrub in the backyard; in violation of Title 18, United States Code, Sections 2232(a), and 2.

DATED: January 5, 2008.

A TRUE BILL:

Foreperson

KAREN P. HEWITT
United States Attorney

By:
CARLA J. BRESSLER
Assistant U.S. Attorney